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10/003,720	10/29/2001	Aaron Dew	50R4792	2640

7590 06/02/2006  
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EXAMINER	
PARRY, CHRISTOPHER L	
ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/003,720	DEW ET AL.	
	Examiner	Art Unit	
	Chris Parry	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 10, 2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument (Page 8, 2<sup>nd</sup> ¶, lines 4-7), stating Legall does not disclose, suggest, or teach using the input to highlight some programs on an EPG and to lowlight or delete other programs on the EPG, the examiner respectfully disagrees. Legall discloses the user can invoke a search command to perform a search (Col. 3, lines 4-7). A user could choose to search the time/date 9/11, and using the inputted time, the EPG would then highlight programs that meet the filter requirements (Col. 3, lines 11-24). Using this time information inputted by the user, programs related to 9/11 would be highlighted; programs such as the news and documentaries that

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discuss the events that happened on 9/11 or even programs that had an original airdate of 9/11 may be highlighted. Therefore, Legall reads on using the input to highlight first programs on an EPG and to delete second programs on the EPG.

### ***Claims Notice***

3. The status of Claims 19-20 is incorrect, as the status of claims 19-20 should be withdrawn, as these claims were not in the elected group in the restriction requirement made on December 12, 2005.

4. Claims 19-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 11, 2006.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 14 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for highlighting first program on an EPG and to lowlight or delete or skip second programs on the EPG, does not reasonably provide enablement for highlighting first program on an EPG and to lowlight and delete and skip

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second programs on the EPG. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

Applicant's disclosure provides support for highlighting first program on an EPG and to lowlight or delete or skip second programs on the EPG on page 8, lines 1-16:

*In any case, based on the time/date/location information received at blocks 36 and/or 38, the logic flows to block 40, wherein the microprocessor 26 establishes one or more of an EPG and programming recommendations based on the information. To do this, the microprocessor 26 executes the settings module 28 to invoke heuristically determined rules. As can be appreciated, a wide range of subjective heuristics can be employed and updated in the database 30 via, e.g., cable or Internet connection to, e.g., automatically establish channels that are listed on the EPG, for instance, to highlight certain programs and lowlight or delete altogether programs that do not match the time/date/location. For example, for a viewer of a bedroom TV on a Sunday morning, a channel carrying WWF wrestling might be lowlighted or not presented at all on the EPG. On the other hand, for a viewer viewing a family room TV on a Friday night, EPG channels carrying comedies or other light fare can be highlighted or presented exclusively. Equivalently, the remote control 34 can be automatically configured to skip non-recommended channels when the channel up/down buttons are pushed and tune only to recommended channels.*

However, applicant's disclosure does not allow someone to reasonably convey how second programs on an EPG can be lowlighted and deleted and skipped.

Therefore, the examiner will interpret the claim to only read on "to lowlight or delete or skip second programs on the EPG".

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 12 recites the limitation "the input" in line 1 of claim 12. There is insufficient antecedent basis for this limitation in the claim.

It is unclear to the examiner as to which "input" is received from a viewer of the TV. Parent claim 7 refers to two such inputs, the first being "receiving an input..." and the second being "if a first input...".

In order to advance prosecution, the examiner will correlate "the input" as cited in claim 12 to "receiving an input..." as cited in parent claim 7.

***Claim Objections***

10. Claims 17 and 18 are objected to because of the following informalities: On line 1 of claims 17 and 18, "means for correlating" should be --means for using the input--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. "Ellis" (U.S. 5,805,230 – cited in previous office action).

Regarding Claim 1, Ellis discloses a system (figure 3) for automatically establishing at least one...EPG based on a location of a TV with respect to a dwelling comprising: a TV (52 – figure 10).

Ellis teaches, a processor (48 – figure 10) coupled to the TV (52 – figure 10) and receiving information representative of a location of a TV within a building (65 – figure

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3), the processor establishing at least one channel based partially thereon (§ 96-99).

Ellis discloses a primary user may select specific channels to be blocked or hidden from an EPG that is assigned to a specific location. As shown in figure 18a, a primary user may choose to block or hide channels such as Cinemax, PPV, and Adult, while establishing HBO as at least one channel allowed to be shown and can specify a location by selecting select location icon 206 and then indicating the location to apply the settings to as shown in figure 13, such as the children's room. Therefore, STB 48 or "processor" can receive information representative of a location of a TV, such as children's room, within a home or "building", with the STB 48 or "processor" establishing at least once channel on the program guide based on the information provided.

As for Claim 2, Ellis teaches, wherein the information is input by a viewer of the TV by disclosing the user the user may user block specific channels using remote control 54 to scroll through and select from channel options 201, 202, 203, and 204 of figure 18a (§ 97).

As for Claim 4, Ellis teaches, wherein the processor (48 – figure 10) accesses a set of heuristics to undertake the establishing act by disclosing STB 48 or "processor" can access the parental controls or "set of heuristics" assigned to a specific location to establish the EPG (§ 96-99). For example, if primary user television equipment 60 shown in figure 3, assigns parental controls to secondary user television equipment 62,



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the STB 48 or "processor" at location 62 will create an EPG based on the parental control settings assigned by the primary user 60.

***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Godwin (U.S. 6,741,834).

As for Claim 3, Ellis fails to disclose wherein the information is received via a global positioning satellite.

In an analogous art, Godwin teaches, wherein the information is received via a global positioning satellite (Col. 7, lines 30-41 and Col. 8, line 67 – Col. 9, line 10).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis with the teachings of Godwin in order for the processor to receive location information from a global positioning satellite for the benefit of getting a more accurate calculation of the position of the receiver in order to determine the local broadcast region (Godwin – Column 7).

15. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Lawler et al. "Lawler" (U.S. 5,758,259 – cited in previous office action).

As for Claim 5, Ellis teaches an input device (54 – figure 10), however Ellis fails to explicitly teach an input device manipulable to establish the channels.

In an analogous art, Lawler discloses an input device (71 – figure 4) manipulable to establish the channels (Col. 5, lines 4-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis with the teachings of Lawler in order to include an input device manipulable to establish the channels for the benefit of providing a user-friendly device that allows a user to input a channel command in order to facilitate establishing a channel.

As for Claim 6, Ellis and Lawler disclose, in particular Lawler teaches, wherein manually input channels are used by the processor (12 – figure 1) to alter heuristics (Col. 8, line 45 – Col. 9, line 26). Lawler discloses in order to determine which program would be preferred for the user; the viewing history of the user will be used. Control node 12 keeps counts of the number of times a show or genre is viewed and depending on the history of the user, central control node 12 will make a program recommendation to the viewer. So as the viewing habits of the user changes, the viewing history will corresponding change and therefore the heuristics will be effectively altered.

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16. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Ward III et al. "Ward" (U.S. 6,756,997 – cited in previous office action).

Regarding Claim 7, Ellis discloses a method for establishing at least one TV channel on a TV (52 – figure 10) based on at least one of: location of the TV...comprising (Col. 3, line 47 – Col. 4, line 22): providing a set of correlation heuristics (§§ 96-99). Ellis discloses a primary user can establish parental controls or "set of correlation heuristics" for a specific secondary user.

Ellis teaches, receiving an input comprising at least one of: the location... (§§ 98). As shown in figure 18a, a primary user may choose to block or hide channels such as Cinemax, PPV, and Adult, and can specify a location by selecting select location icon 206 and then indicating the location to apply the settings to as shown in figure 13, such as the children's room.

Ellis teaches, accessing the set of correlation heuristics to correlate the input to the channel by disclosing STB 48 can access the parental controls or "set of correlation heuristics" assigned to a specific location to establish the EPG (§§ 96-99). For example, if primary user television equipment 60 shown in figure 3, assigns parental controls to secondary user television equipment 62, the STB 48 at location 62 will create an EPG based on the parental control settings assigned by the primary user 60 in order to correlate the inputted parental controls to the channels.

However, Ellis fails to disclose if a first input is sensed two or more times contemporaneously with a manually-input setting, correlating the input to the setting.

In an analogous art, Ward discloses if a first input is sensed two or more times contemporaneously with a manually-input setting, correlating the input to the setting (Col. 29, lines 40-51). Ward discloses if the Profile Program stored on a user's STB detects the viewer has an interest in sports and more specifically the user has a favorite team, the user's favorite team will be set as a Viewer Preference. In order to make this determination, the Profile Program has to analyze at least two or more inputs by the user. As disclosed by Ward, if a user watches a lot of basketball games and each game includes at least one common team, then viewer's favorite team can be recorded as a setting. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to include if a first input is sensed two or more times contemporaneously with a manually-input setting, correlating the input to the setting as taught by Ward for the benefit of determining preferred programming for the viewer based on inputs that are sensed multiple times from the user (Ward – Col. 29).

As for Claim 8, Ellis and Ward disclose, in particular Ellis teaches wherein the location is a location of the TV within a building by disclosing a user enters his/her zip code to identify where his/her TV is located with respect to the location of his/her building (Ellis - ¶ 96-99). Ellis discloses a primary user may select specific channels to be blocked or hidden from an EPG that is assigned to a specific location.

As for Claim 9, Ellis and Ward disclose, in particular Ward teaches wherein the location is a geographic location of the TV by disclosing the viewer provides certain profile information including the viewer's zip code (Col. 27, lines 65-66). Further, during set-up procedures, all channel maps are downloaded within the viewer's zip code (Col. 31, lines 58-64). Therefore, Ward discloses, a user can provide his/her zip code to provide the geographic location of the TV in order to establish the receivable channels.

As for Claims 10 and 11, the claims are rejected as the claims fail to be further limiting of claim 7.

As for Claim 12, Ellis and Ward disclose, in particular Ward teaches wherein the input is received from a viewer of the TV by disclosing the viewer is asked to identify information necessary for the television to select appropriated channel mapping options (Col. 31, lines 58-64).

17. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Ward as applied to claim 7 above, and further in view of Godwin.

As for Claim 13, the combination of Ellis and Ward fail to disclose wherein the information is received via a global positioning satellite.

In an analogous art, Godwin teaches, wherein the information is received via a global positioning satellite (Col. 7, lines 30-41 and Col. 8, line 67 – Col. 9, line 10). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Ellis and Ward with the teachings of Godwin in order for the processor to receive location information from a global positioning satellite for the benefit of getting a more accurate calculation of the position of the receiver in order to determine the local broadcast region (Godwin – Column 7).

18. Claims 14-15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons et al. "Lemmons" (U.S. 6,266,814 – cited in previous office action) in view of Legall et al. "Legall" (U.S. 6,005,565 – cited in previous office action).

Regarding Claim 14, Lemmons discloses a system (70 – figure 2) for tailoring TV channels to... a time, comprising: means for inputting the...time to establish an input (Fig. 22-23) (Col. 29, lines 15-26 and Col. 29, lines 59-64). Lemmons discloses the user can use remote control 78 to view the day-to-view screen 300, as shown in figure 8, to select or input a time of the day and the EPG corresponding to the selected time will be displayed.

Lemmons discloses, means for using the input to display first programs on an electronic program guide (EPG) and to...delete second programs on the EPG (figure 8) (Col. 16, lines 20-40). For example a user can select to view all programs in the morning between 7:00-11:00 AM (322 – figure 8) and all the programs during that time

period will be highlighted and programs outside of that time will be deleted and not viewed by the user (Col. 29, lines 59-64) (Figs. 12-13 and 22-23).

However, Lemmons fails to explicitly disclose means for using the input to highlight first programs on an electronic program guide (EPG).

In an analogous art, Legall discloses means for using the input to highlight first programs on an electronic program guide (EPG) and to...delete...second programs on the EPG by disclosing a user can invoke a search command to perform a search (Col. 3, lines 4-7) in order to produce a filtered EPG. A user could choose to search or "input" the time/date 9/11, and using the inputted time, the EPG would then highlight programs that meet the filter requirements (Col. 3, lines 11-24). Using this time information inputted by the user, programs related to 9/11 would be highlighted; programs such as news and documentaries that discuss the events that happened on 9/11 or even programs that had an original airdate of 9/11 may be highlighted. Correspondingly, other programs or "second programs" that did not meet this search requirement would be filtered out or "deleted" from the EPG.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lemmons with the teachings of Legall to facilitate highlighting first programs in an EPG for the benefit of causing a selected set of programs to stand out or be more readily recognized by the user from a second set of programs.

As for Claim 15, Lemmons and Legall disclose, in particular Lemmons teaches wherein the means for inputting is a human-manipulable TV control device (78 – figure 2) associated with the TV (84 – figure 2) (Col. 7, lines 58-67).

As for Claim 18, Lemmons and Legall disclose, in particular Lemmons teaches wherein the means for correlating is a processor (74 – figure 2) located in a set-top box (70 – figure 2) associated with the TV (84 – figure 2) (Col. 7, lines 20-41).

19. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons in view of Legall as applied to claim 14 above, and further in view of Godwin.

As for Claim 16, the combination of Lemmons and Legall fail to disclose wherein the means for inputting is a wide area source of data.

In an analogous art, Godwin teaches, wherein the means for inputting is a wide area source (Col. 7, lines 30-41 and Col. 8, line 67 – Col. 9, line 10). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Lemmons and Legall with the teachings of Godwin in order for the processor to receive location information from a global positioning satellite for the benefit of getting a more accurate calculation of the position of the receiver in order to determine the local broadcast region (Godwin – Column 7).

20. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmons in view of Legall as applied to claim 14 above, and further in view of Ellis.



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As for Claim 17, the combination of Lemmons and Legall disclose, in particular Lemmons teaches a system where the processor is located in a set-top box. However, the combination of Lemmons and Legall fail to disclose a system, wherein the means for correlating is a processor located in the TV.

In an analogous art, Ellis discloses wherein the means for correlating is a processor located in the TV (¶ 64 and 70). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Lemmons and Legall with the teachings of Ellis to include means for correlating is a processor located in the TV for the benefit of combining the processing capabilities of a set-top box with a TV in order to minimize the necessary components needed for the system.

***Note to Applicant***

21. Art Units 2611, 2614 and 2617 have changed to 2623. Please make sure all future correspondence indicate the new designation 2623.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chris Parry whose telephone number is (571) 272-8328. The examiner can normally be reached on Monday through Friday, 8:30 AM EST to 4:30 PM EST.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiners Initials: CLP

May 23, 2006

  
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